

1 SENATE BILL 127

2 **49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009**

3 INTRODUCED BY

4 Peter Wirth

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10 AN ACT

11 RELATING TO ANIMALS; CLARIFYING PROVISIONS OF CRIMINAL LAW
12 REGARDING TAKING CRUELLY TREATED ANIMALS INTO CUSTODY;
13 PROVIDING FOR SECURITY IN AMOUNTS NEEDED FOR THE CARE OF
14 ANIMALS SEIZED IN COMMISSION OF CRUELTY TO ANIMALS CASES.

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16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

17 Section 1. Section 30-18-1.2 NMSA 1978 (being Laws 1999,
18 Chapter 107, Section 3) is amended to read:

19 "30-18-1.2. DISPOSITION OF SEIZED ANIMALS.--

20 A. If the court finds that ~~the~~ a seized animal is
21 not being cruelly treated and that the animal's owner is able
22 to ~~adequately~~ provide for the animal adequately, the court
23 shall return the animal to its owner.

24 B. If the court finds that ~~the~~ a seized animal is
25 being cruelly treated or that the animal's owner is unable to

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1 [adequately] provide for the animal adequately, the court shall
2 hold a hearing to determine the disposition of the animal.

3 C. An animal control agency operated by the state,
4 a county or a municipality, or an animal shelter or other
5 animal welfare organization designated by an animal control
6 agency or an animal shelter, in the custody of which an animal
7 that has been cruelly treated has been placed may petition the
8 court to request that the animal's owner be ordered to post
9 security to indemnify the costs incurred to care and provide
10 for the seized animal pending the disposition of any criminal
11 charges of committing cruelty to animals pending against the
12 animal's owner. The security shall be in an amount sufficient
13 to secure payment of all reasonable expenses expected to be
14 incurred in caring and providing for the animal pending
15 disposition of the criminal charges.

16 D. The court shall determine the amount of security
17 while taking into consideration all of the circumstances of the
18 case and may conduct periodic reviews of its order. If the
19 posting of security is ordered, the animal control agency,
20 animal shelter or animal welfare organization may draw from the
21 security to indemnify the costs incurred to care and provide
22 for the seized animal pending disposition of the criminal
23 charges.

24 E. If the owner of the animal does not post
25 security within fifteen days after the issuance of the order,

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1 or if, after reasonable and diligent attempts the owner cannot
2 be located, the animal shall be deemed abandoned and
3 relinquished to the animal control agency, animal shelter or
4 animal welfare organization for adoption or humane destruction.

5 F. Nothing in this section shall prohibit an owner
6 from voluntarily relinquishing an animal to an animal control
7 agency or shelter in lieu of posting security. A voluntary
8 relinquishment shall have no effect on the disposition of any
9 criminal charges alleging that the owner has committed cruelty
10 to animals.

11 ~~[G.]~~ G. Upon conviction, the court [may] shall
12 place the animal [for adoption] with an animal shelter or
13 animal welfare organization for placement or [provide] for
14 [the] humane destruction [of the animal]."

15 Section 2. Section 30-18-1.3 NMSA 1978 (being Laws 1999,
16 Chapter 107, Section 4) is amended to read:

17 "30-18-1.3. COSTS.--~~[A.]~~ Upon conviction, ~~[the] a~~
18 ~~defendant [may] shall~~ be liable for ~~[the cost of boarding the~~
19 ~~animal and all necessary veterinary examinations and care~~
20 ~~provided to the animal.~~

21 ~~B. In the absence of a conviction, the seizing~~
22 ~~agency shall bear the costs of boarding the animal and all~~
23 ~~necessary veterinary examinations and care of the animal during~~
24 ~~the pendency of the proceedings] any additional costs above the~~
25 value of the security posted pursuant to Section 30-18-1.2 NMSA

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1 1978. Unexpended security funds shall be returned to the
2 defendant."

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